

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

UNITED STATES OF AMERICA

v.

TOBIAS MARQUEZ MITCHELL,

Defendant.

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CASE NO: 7:23-CR-25 (WLS)

ORDER

Previously, the Court provided the Parties with notice that this case was scheduled for pretrial conference on Tuesday, September 5, 2023, at 3:00 p.m. and for trial on Monday, September 25, 2023 (Doc. 18). In the event the case is not ready for trial, the Parties were ordered to file a motion to continue at least two days prior to the date of the noticed pretrial conference. (*Id.*) The Defendant filed a timely Unopposed Motion to Continue in the Interests of Justice (Doc. 29) (“Motion”) stating that the Federal Defenders of the Middle District of Georgia, Inc. was appointed to represent Defendant on July 25, 2023 (Doc. 9). Defendant’s counsel received discovery on July 26, 2023, and needs additional time to review discovery with Defendant, as well as determine what investigation is necessary, complete that investigation and determine whether to engage in any plea negotiations with the Government. Defense Counsel represents that the Government does not oppose the Motion. He further states that the requested continuance would best serve the interests of justice, would not unduly prejudice either party and that the delay be excluded in computing time within which trial must commence under the Speedy Trial Act. 18 U.S.C. § 3161. Defendant further requests that the Court extend the deadline for filing motions, included but not limited to any motion to suppress evidence, in the event plea negotiations are unsuccessful.

Based on the Defendant’s stated reasons, the Court finds that a continuance is required for Defense Counsel to effectively prepare for trial. The Court further finds the ends of justice served by granting such a continuance outweigh the best interests of the public and the Defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A)-(B). Therefore, the Motion (Doc. 29)

is **GRANTED**. The Court hereby **ORDERS** that the trial in the above-referenced matter be **CONTINUED** to the Valdosta Division February 2024¹ term and its conclusion, or as may otherwise be ordered by the Court.

Furthermore, it is **ORDERED** that the time lost under the Speedy Trial Act, 18 U.S.C. § 3161, be **EXCLUDED** pursuant to 18 U.S.C. § 3161(h)(7) because the Court has continued the trial in this case and finds that the failure to grant a continuance (a) would likely result in a miscarriage of justice, and (b) would deny Defense Counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv).

The September 5, 2023 pretrial conference is **CANCELLED** and all deadlines for filing of motions set forth in the Notice of Pretrial Conference (Doc. 18) are vacated.

SO ORDERED, this 18th day of August 2023.

/s/ W. Louis Sands

W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

¹ As Counsel is aware, the Court's next Valdosta trial term is November 2023. Based on Defense Counsel's statements of work which needs to be completed and giving time for negotiations and/or motions that Counsel may file, the Court is continuing the trial to the February 2024 term. In the event either Defense Counsel or Government's Counsel expects the case will be ready for trial during the November 2023 Valdosta trial term, such Counsel shall immediately notify the Court by motion to set the trial for the November 2023 term.